

1 Q. So let's say hypothetically something
2 like that had occurred between May 2002 and
3 January or February 2003 when you were in the VPA
4 position, you would have terminated an employee?
5 And I realize we're talking hypothetical here.

6 A. Absolutely. That would not have been
7 a discussion. What I would have done there is I
8 would have listened to the tape. If I got a
9 report of that nature, on that case, the tape
10 would have been played back for the rep
11 specifically. What I would do is, I would have
12 called in the rep -- and I would have generally
13 done this with my division manager present
14 because I like a witness on some of these cases.
15 There are certain cases where I just chose to
16 have a witness present, such as a female rep. I
17 just did. I would play the tape. I would at
18 least hear their side, but we would -- if I had
19 already heard the tape and made the decision on
20 the basis of the tape -- I would have heard the
21 side of the rep. But having heard the tape

1 myself, I likely would have started the
2 termination process. I would be playing for the
3 rep as a curtesy.

4 Q. Okay. Did you have any discussions
5 with Mr. Brzycki about these particular issues?

6 A. Very few, if any.

7 Q. Do you remember what Mr. Brzycki's
8 advice to you was, if any?

9 A. I just found Mr. Brzycki to be very
10 uncooperative. I don't have any -- I don't mean
11 to pick on Mr. Brzycki here but you asked me
12 about him, and my answer is, he was just largely
13 unresponsive and not confident and I chose to not
14 get his advice. It took me a while to know this.
15 I don't dislike the man. I actually found him to
16 be personable when I first met him, not even
17 knowing what his position was.

18 If I may, the first day I was in the
19 company, waiting in the reception area, it caught
20 my attention the work he wasn't doing. And I
21 don't say that later. At the time I'm thinking,

COURT REPORTERS, ETCetera, INC.

(202) 628-DEPO (410) 653-1115 1-800-947-DEPO (3376)

"We'll cover your job ANYWHERE in the country!"

1 What's his job? Why isn't he working harder?
2 You know what I mean? It was very funny later on
3 to discover that I was going to replace this man.
4 It was just one of those things.

5 And the woman at the reception desk
6 ended up being my divisional manager later on, as
7 it turned out. The point is I don't have -- no,
8 I got no advice from him. I decided later that I
9 didn't want any. It was about July the 5th I
10 think we were in the office where I thought, This
11 is not someone I should be listening to because
12 this guy has problems. I actually sought to
13 unlearn and eliminate some of his policies.

14 To be very honest with you, I actually
15 asked Kurtis at one point -- I'm going to be very
16 frank here -- I said to Kurtis in his office -- I
17 think this was the 5th of July -- the office was
18 empty. We were shut down for the 4th of July. I
19 think my exact question was, I don't know this
20 guy, Kurtis, he's your friend, he's worked here
21 eight years, I'm sure you love him, but is he

1 here to sabotage you?

2 And those were my exact words. I'm
3 telling you this honestly because that's what I
4 said, having been at the company seven weeks.

5 So my broad answer to you is no, I got
6 no advice from him. I sought none after a few
7 short weeks there, realizing that this was not
8 someone who was here to help me. It was a bit
9 frustrating I admit, because here I am new to an
10 entire industry, new to the company, new to the
11 city, new to the state. You just couldn't find
12 apprenticing. It would have helped quite a bit,
13 I think. So at that point I realized I was sort
14 of -- no one took my paddle. I'm drifting here.
15 I could have had some help and realized I wasn't
16 going to get it here.

17 Q. Did any of the policies that you tried
18 to unlearn that you learned from Mr. Brzycki have
19 to do with terminating or not terminating
20 telemarketers for the situation that we just
21 discussed?

1 A. The answer is no as per my
2 recollection. At the time, something that I
3 brought to the company that didn't exist before,
4 I think, was just a little more organization on
5 the terminations, as I understand it. I don't
6 know that it's because I was there. Terminations
7 were occurring in other parts of the company.
8 Others could terminate. And when I got there,
9 the policy was that they all had to go through
10 me.

11 Q. Okay. Very briefly I want to talk
12 about the directive that you wrote in December of
13 2002 or January or February of 2003 that's called
14 When to Stop a Sale.

15 A. I believe that's the exact title.

16 MR. HARKRADER: The memo you have in
17 your car, does that sound like the one you're
18 referring to?

19 MR. HAWA: That is the one I'm
20 referring to. I'll bring it in. By the way, I'm
21 getting other documents too. I'm hoping to have

1 them by lunch.

2 MR. HARKRADER: That's great. Thank
3 you.

4 BY MR. HARKRADER:

5 Q. Why did you feel compelled to write
6 that policy?

7 A. There was a sale that -- I'm trying to
8 recall. I don't know if it came through on
9 customer service or what, but somehow a sale came
10 to my attention. And in all honesty, it was a
11 clean sale. I mean that honestly. It was a
12 clean sale. The pitch was correct, and there was
13 no misrepresentation. And I'm not totally
14 convinced it actually went through as a sale. My
15 recollection is weak on that. But I couldn't
16 find a policy that I could cite to discipline
17 this employee.

18 And you're probably saying, why did
19 you want to discipline him if it was clean?
20 Well, because it was just not right. Because
21 this customer was too old to know what was going

1 on. And so I felt, You know what? We just need
2 to not sell to -- and, again, the rep doesn't
3 know who they're calling and wants to make a sale
4 and does not have the appreciation from the
5 company standpoint that this might not be someone
6 to pursue. They made the sale, of course. I
7 have in my records that they did. But I thought,
8 you know what, we need to avoid -- I think the
9 daughter called back or something to customer
10 service and said something like, My mom is 90 and
11 she didn't know what she was buying. And I
12 listened to the tape, and it was a clean sale.

13 So I just wanted to -- for community
14 relations purposes, I think more than anything
15 else -- I thought, this isn't right. We're a
16 reputable company. We're trying very hard to set
17 standards in the telecom industry and we're doing
18 that. So let's include that we're just going to
19 not sell, we're going to have to get our people
20 to be professional and perceive when you have
21 someone who is truly aged. Or, again, I also

1 thought of diminished capacity, although I never
2 had that example. I just wanted more
3 professionalism in that.

4 Q. Was that made a policy?

5 A. It's an actual policy in the company.
6 Got approved. Not like the policies you see in
7 some of the documents.

8 Q. Were there any other -- was it just
9 that one particular sale that prompted that?

10 A. Just that one sale. That's all. It
11 had not happened prior but it was enough for me.

12 Q. Did you feel like when you wrote that
13 policy that you were helping to kind of turn the
14 company in a new direction?

15 A. Oh, I think it really reflected the
16 direction that Kurtis and Keanan really wanted
17 for us. When I came on board, that was just
18 something Kurtis emphasized to me. That's why I
19 wrote it. I thought it was reflective of -- I
20 really got the idea and maintained the same
21 discipline that -- let's be honest, the

COURT REPORTERS, ETCetera, INC.

(202) 628-DEPO (410) 653-1115 1-800-947-DEPO (3376)

"We'll cover your job ANYWHERE in the country!"

1 telemarketers don't have the highest reputation
2 in the world, don't have the highest standards of
3 morality.

4 Q. You're talking to a lawyer.

5 A. And we were just trying to change
6 that, you know. We have a good product. We want
7 it to be properly represented. We want people to
8 know what they're buying. We have nothing to be
9 ashamed of, and we want our people to reflect
10 that. So I wrote this policy in that spirit.
11 This is PR, nothing else. We're just not going
12 to do this. I don't care if it'll make a sale,
13 even if it's a clean sale, we're not going to
14 sell to someone who is 90 years old.

15 Q. But nevertheless, you felt this needed
16 to be clarified?

17 A. Yes. Well, the thing is, you can't
18 discipline someone if you don't have it as a
19 policy. I can't correct them. I can't stop a
20 practice if I don't have some reference to what
21 they're doing, they can't do.

1 Q. Do you remember when that sale took
2 place?

3 A. I'm going to say, again, later in my
4 tenure there. Late winter. We're also talking
5 post November.

6 Q. Do the names Bessie Goodbrake
7 (phonetic) or James Stack (phonetic) mean
8 anything to you?

9 A. Nothing.

10 Q. Was that policy in effect or was any
11 similar policy in effect in the first eight
12 months of 2002?

13 A. Not that I know of. Only the policy
14 of proper representation. And then, of course,
15 it largely wasn't a problem because it's the kind
16 of thing that verification should pick up, and
17 does. It almost always does. And it might even
18 be in this case that they did. But I wanted it
19 to be solved prior to that. These sales would
20 almost never go through on a verification. So I
21 would never hear it because there would never be

1 a sale. Maybe this did, and I don't recall. But
2 the fact is, I didn't want it to even go that
3 far.

4 MR. HARKRADER: That's all I have.

5 EXAMINATION

6 BY MR. HAWA:

7 Q. Just one more question. You stated in
8 your testimony earlier that you write a mean
9 letter, not an angry letter but a good letter?

10 A. Seem to.

11 Q. You like writing directives and
12 letters when the occasion arises?

13 A. I do.

14 Q. So it's not unusual at all that one
15 needs you to draft policy because you like
16 drafting policy?

17 A. The truth is, anybody in the company
18 can -- well, not anybody. We can all write
19 policies. Most of the executives can write
20 policies. And I did enjoy it.

21 Q. But the specific question is, one

COURT REPORTERS, ETCetera, INC.

(202) 628-DEPO (410) 653-1115 1-800-947-DEPO (3376)
"We'll cover your job ANYWHERE in the country!"

1 incident could lead you to draft a policy?

2 A. Oh, yes. Exactly. And this one
3 incident did.

4 MR. HAWA: I have nothing further.

5 MR. HARKRADER: Thank you very much.

6 MR. HAWA: We're done.

7 COURT REPORTER: Signature?

8 MR. HARKRADER: You have the
9 opportunity to review the transcript and to sign
10 it.

11 THE WITNESS: Is that common? I don't
12 feel it's necessary.

13 MR. HARKRADER: Some people do it.
14 Some people don't. It's all a matter of personal
15 choice.

16 THE WITNESS: I decline. That's fine.
17 I trust you.

18 MR. HARKRADER: As far as that goes,
19 you have placed trust in the court reporter. Now
20 there may be some instances where name spellings
21 are a little bit odd. And as far as that goes,

COURT REPORTERS, ETCetera, INC.

(202) 628-DEPO (410) 653-1115 1-800-947-DEPO (3376)

"We'll cover your job ANYWHERE in the country!"

1 collectively we'll do our best to try to make
2 sure the names that you have mentioned in your
3 testimony are spelled properly.

4 THE WITNESS: That's okay. I'm fine.
5 I'm very comfortable. I can't imagine that I
6 need to review the entire transcript just to
7 verify names.

8 MR. HARKRADER: But we have your
9 correct address.

10 THE WITNESS: You do now.

11 MR. HARKRADER: Okay. We can go off
12 the record now.

13 (Reading and signing requested.)

14 (Deposition concluded 3:30 p.m.)

15

16

17

18

19

20

21

1 CERTIFICATE OF REPORTER/NOTARY PUBLIC

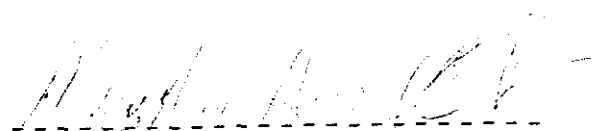
2 STATE OF INDIANA, to wit:

3 I, MARYANN HERR, a Notary Public of
4 the State of Indiana, do hereby certify that the
5 within-named witness personally appeared before
6 me at the time and place herein set out, and
7 after having been duly sworn by me, according to
8 law, was examined by counsel.

9 I further certify that the examination
10 was recorded stenographically by me and this
11 transcript is a true record of the proceedings.

12 I further certify that I am not of
13 counsel to any of the parties, nor in any way
14 interested in the outcome of this action.

15 As witness my hand and notarial seal
16 this 29th day of July, 2003.

17 
18 _____
19 MaryAnn Herr
20 Notary Public

21 My Commission Expires: 07-06-09

1 DATE SENT: July 29, 2003

2 ERRATA SHEET

3 DEPOSITION OF: Gene Chill

4 DATE: July 17, 2003

5 IN THE MATTER OF: Business Options, Inc.

6 INSTRUCTIONS:

- 7
- 8 1. Please read the transcript of your deposition
9 and make note of any corrections or changes
on this Errata Sheet. DO NOT mark on the
transcript itself.
- 10 2. Indicate below general reason for change,
such as:
- 11 A. To correct stenographic error.
12 B. To clarify record.
C. To conform to the facts.
- 13 3. Sign the Certificate of Deponent page.
- 14 4. Return this Errata Sheet, along with the
15 signed Certificate of Deponent page, within
30 days of the Date Sent, to the office
16 listed below for immediate forwarding to
other counsel in the case.

17 PAGE NO. LINE NO. CORRECTION REASON

18 -----
19 -----

20 COURT REPORTERS, ETCetera, INC.

2833 Smith Avenue, #260

Baltimore, MD 21209

21 (410) 653-1115 (202) 628-DEPO (3376)

COURT REPORTERS, ETCetera, INC.

(202) 628-DEPO (410) 653-1115 1-800-947-DEPO (3376)

"We'll cover your job ANYWHERE in the country!"

1 ERRATA SHEET FOR GENE CHILL:

2 PAGE NO. LINE NO. CORRECTION REASON

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

COURT REPORTERS, ETCetera, INC.

(202) 628-DEPO (410) 653-1115 1-800-947-DEPO (3376)

"We'll cover your job ANYWHERE in the country!"

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

CERTIFICATE OF DEPONENT

I hereby certify that I have read and examined the foregoing transcript, and the same is a true and accurate record of the testimony given by me.

Any additions or corrections that I feel are necessary, I will attach on a separate sheet of paper to the original transcript.

GENE CHILL